

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

J R HAYES & SONS, INC., a Washington  
Corporation,

Plaintiff,

v.

COLONY INSURANCE COMPANY, a non-  
admitted insurance company headquartered in  
Virginia,

Defendant.

No.:

NOTICE OF REMOVAL OF DEFENDANT  
COLONY INSURANCE COMPANY

TO: J R HAYES & SONS, INC.;

AND TO: Jack Zahner and Rose McCarty, attorneys for Plaintiff;

AND TO: Clerk, King County Superior Court.

Under 28 U.S.C. Sections 1332, 1441, and 1446, Defendant Colony Insurance  
Company removes to this Court the state court action described below. In support of this  
Notice, Colony states as follows:

1. On March 15, 2019, Plaintiff J R Hays & Sons, Inc., filed a Complaint in King  
County Superior Court (*J R Hayes & Sons, Inc. v. Colony Insurance Company*, Case No. 19-  
2-07462-1 SEA (the state court action)).

2. On March 15, 2019, J R Hayes served a copy of the Summons and Complaint

1 on the Office of the Insurance Commissioner, who accepted service on behalf of Colony. On  
2 March 19, 2019, J R Hayes also served Colony.

3 3. Under 28 U.S.C. Section 1446(b), Colony timely files this Notice within 30  
4 days after service of the Summons and Complaint upon the Washington Insurance  
5 Commissioner.

6 4. In J R Hayes's Complaint, it pleads claims against Colony for violations of the  
7 Washington Insurance Fair Conduct Act and the Washington Consumer Protection Act,  
8 insurance bad faith, breach of contract, and declaratory judgment. Colony denies any and all  
9 liability and damages.

10 **A. Jurisdiction**

11 7. The state court action may be removed to this Court under 28 U.S.C. Section  
12 1441 because this Court has original jurisdiction under 28 U.S.C. Section 1332, based upon  
13 the complete diversity of the parties.

14 8. J R Hayes, upon information and belief, is a Washington corporation with its  
15 principal place of business in King County, Washington. Colony is an Virginia corporation  
16 with its principle place of business in Richmond, Virginia. Accordingly, there is complete  
17 diversity between the parties in satisfaction of 28 U.S.C. Section 1332(a).

18 9. Colony denies any and all liability for J R Hayes's legal claims. But, the  
19 alleged amount in controversy satisfies the \$75,000 jurisdictional threshold in 28 U.S.C.  
20 Section 1332(a). Specifically, J R Hayes seeks liability insurance coverage from Colony for  
21 third-party claims against J R Hayes and other parties alleging damages exceeding  
22 \$35,000,000.<sup>1</sup>

23 **B. Venue**

24 10. Venue is proper in the United States District Court for the Western District of  
25

26 <sup>1</sup> *City of Issaquah v. Ora Talus 90, LLC* (Case no. 18-cv-00910 RSM), Dkt. No. 34, ¶ 75.

Washington, because it is the district embracing the place where the state court action is pending.<sup>2</sup>

**C. Intradistrict Assignment**

11. Assignment is proper to the Seattle Division because J R Hayes filed the Complaint in King County, Washington.<sup>3</sup>

**D. Procedure After Removal**

12. The process, pleadings, and orders served on Colony in this action include the Summons and Complaint. In accordance with 28 U.S.C. Section 1446(a) and LCR 101, a true and correct copy of the process, pleadings, and orders, as well as all additional records in the state court action, are attached to this Notice.

13. In accordance with 28 U.S.C. Section 1446(d), Colony will file, in King County Superior Court, a Notice to Plaintiff and to the State Court Clerk of Removal to the U.S. District Court.

14. By filing this Notice, Colony does not waive, and expressly reserves, all rights, defenses, and objections of any nature that Colony may have to J R Hayes's legal claims.

DATED: April 12, 2019

BULLIVANT HOUSER BAILEY PC

By /s/ Matthew J. Sekits

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By /s/ Jayme N. Mori

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Attorneys for Defendant Colony Insurance  
Company

<sup>2</sup> 28 U.S.C. § 1441(a); *Polizzi v. Cowles Magazines, Inc.*, 345 U.S. 663, 666, 73 S. Ct. 900, 97 L. Ed. 1331 (1953).

<sup>3</sup> See LCR 101(e); LCR 3(d)(1).

**CERTIFICATE OF SERVICE**

I hereby certify that on April 12, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF e-filing system which will send notification of such filing to the persons listed below:

Jack Zahner  
Rose McCarty  
FOSTER PEPPER PLLC  
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<input checked="" type="checkbox"/>

via hand delivery.  
via first class mail.  
via email  
CM/ECF Eservice

*Attorneys for Plaintiff*

Dated: April 12, 2019.

/s/ Genevieve Schmidt  
Genevieve Schmidt, Legal Assistant